

IN THE UNITED STATES DISTRICT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

JOHN FORNARELLI,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-3231-CV-S-DW-H
)	
ROBERT MCFADDEN, Warden, et al.,)	
)	
Respondents.)	

ORDER

Before the Court is Magistrate Judge England's Report and Recommendation that Defendant be denied leave to proceed *in forma pauperis* and recommending that the petition for writ of habeas corpus be dismissed without prejudice (Doc. 4) and the Defendant's objections thereto (Doc. 7). After an independent review of the record, the applicable law and the parties' arguments, the Court adopts the Magistrate's findings of fact and conclusions of law.

Accordingly, the Court order that the Magistrate's Report and Recommendation be attached to be made a part of this Order, denies the Defendant leave to proceed *in forma pauperis* and dismisses Defendant's petition for writ of habeas corpus without prejudice.

IT IS SO ORDERED

/s/ DEAN WHIPPLE
Dean Whipple
United States District Judge

DATE: November 14, 2005